IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.91 OF 2002
WITH
INCOME TAX APPLICATION NO.92 OF 2002
WITH

INCOME TAX APPLICATION NO.93 OF 2002
WITH
INCOME TAX APPLICATION NO.94 OF 2002

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.Procter & Gamble ..Respondent.

Mr.A.N.Kotangale for applicant in all the matters.

Mr.Sanjeev Shah with Rajesh Shah for respondent in all the matters.

CORAM : H.L.GOKHALE AND
J.P.DEVADHAR, JJ.

DATED : 27TH NOVEMBER, 2006.

P.C. :-

Heard Mr.Kotangale in support of the applications. Mr.Shah appears for the respondent. All these applications seek a reference with respect to the decision of the Income Tax Appellate Tribunal concerning four different assessment years. The case of the revenue is that the employees of the respondent - assessee Company were given benefits / perquisites towards reimbursement of driver’s salary, reimbursement of servant’s salary and reimbursement of soft

furnishing. It is the case of the revenue that the appropriate tax amounts on those perquisites was not deducted and, therefore, a penalty is sought to be imposed in all those matters. The amount of the penalty in all these matters is less than Rs.4 lakhs. It is not disputed that the Central Board of Direct Taxes had directed the department by taking a policy decision not to file such references for which the tax effect is less than Rs.4 lakhs. That is the current provision. It will apply to these assessment years also. The Division Bench of this Court has taken such a view with respect to the applicability of the current circular to old references as held in **C.I.T. V/s. Pithwa Engg. Works** reported in **2005(276) I.T.R. 519**. This being the position, none of the references deserves to be entertained.

2. We may as well add that the decision of the Tribunal in dealing with the penalty is in consonance with the similar questions raised in Glaxo India Ltd. and Mahindra and Mahindra where those decisions have been left undisturbed by the Apex Court.

3. All the applications are dismissed.

(H.L.GOKHALE, J.)

(J.P.DEVADHAR, J.)